



#10

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of )  
 )  
FRANK J. RAGEN )  
 )  
Docket No. FJR001U )  
 )  
Serial No. 09/312,260 )  
 )  
Filed: May 3, 2000 )  
For: Baby Support Wrap )

GROUP ART UNIT: 3628  
Examiner: Conley, Fredrick

Box Patent Application  
Assistant Commissioner of Patents  
Washington, District of Columbia 20231

PRELIMINARY AMENDMENT

This is in response to the Office Action dated February 20, 2001.

IN THE CLAIMS

1. (Twice Amended) A baby support comprising:

- (a) a piece of fabric, the fabric sized to substantially encapsulate [a]the baby, the fabric having attached thereto means for receiving a support pad;
- (b) the support pad [of uniformly]being substantially planar and of uniform thickness, the support pad[construction] sized to support the head and back of [a]the baby; and

wherein when the support pad is inserted in the means for receiving the support pad, the support pad provides firm support for [a]the baby's head and back when the fabric is wrapped about the baby.

In claim 6, line 3, replace the word "sticks" with the word --adheres--.

In claim 6, line 4, delete the words, " commonly known as Velcro®."

In claim 9, line 3, replace the word "sticks" with the word --adheres--.

09/312,260 FJR001U

In claim 9, line 4, delete the words, " commonly known as Velcro®."

22. (Twice Amended) A baby support comprising:

(a) a blanket, the blanket sized to encapsulate [a]the baby, the blanket having attached thereto means for receiving a resilient support pad in a desired position with respect to the blanket;

(b) the resilient support pad [of uniformly]being substantially planar and of uniform thickness, the support pad[construction] sized to support the head and back of [a]the baby, the profile of the support pad broader than the baby and substantially the same length as the baby; and

wherein when the support pad is inserted in the means for receiving the support pad, the support pad provides firm support for the[a] baby's head and back when the blanket is secured about the baby.

1

In claim 28, line 4, replace the word "sticks" with the word --adheres--.

In claim 28, line 5 delete the words, " commonly known as Velcro®."

In claim 31, line 3, replace the word "sticks" with the word --adheres--.

In claim 31, line 4 delete the words, " commonly known as Velcro®."

41. (Twice Amended) A baby support system comprising:

(a) a first support structure configured to be wrapped about the[a] baby, the first support structure having attached thereto means for receiving a second support structure; and

(b) the second support structure[, of uniformly]being substantially planar and of uniform thickness[construction], such that when the second support structure is inserted in the means for receiving the second support structure, and the first support structure is wrapped about the baby, the second support structure is located so as to provide firm support to the head and back of the baby.

46. (Amended) A baby support comprising:

(a) a blanket, the blanket sized to encapsulate the[a] baby, the blanket having attached thereto means for receiving a support pad of resilient, memory-foam material, the means for receiving the support pad configured so as to maintain the support pad in a desired position with respect to the blanket;

(b) the support pad [of uniformly]being substantially planar and of uniform thickness[construction], the support pad sized to support the head and back of the[a] baby, the profile of the resilient support pad broader than the baby and substantially the same length as the baby; and

wherein when the support pad is inserted in the means for receiving the support pad, the support pad provides firm support for the[a] baby's head and back when the blanket is secured about the baby.

50. (Amended) The baby support of Claim 48, wherein the cover is detachably affixed to the blanket by means of a complementary pair of strips consisting of one strip of fabric of small hooks that adheres[sticks] to a corresponding strip of fabric of small loops, [commonly known as Velcro®], and wherein at least one strip is connected to the cover, and at least one complementary strip[ of Velcro®] is connected to the blanket, and whereby the cover is affixed to the fabric by engaging the at least one strip[ of Velcro®] on the cover to the complementary strip on the blanket.

53. (Amended) The baby support of Claim 46, further comprising a complementary pair of strips consisting of one strip of fabric of small hooks that adheres[sticks] to a corresponding strip of fabric of small loops,[ commonly known as Velcro®], and wherein at least one strip is located on a first side of the fabric; and at least one complementary strip[ of Velcro®] is located on a second side of the blanket which is engagable with the at least one strip[ of Velcro ®] on the first side of the blanket so as to secure the blanket about the baby.

## REMARKS

The amendments to claims 1, 22, 41 and 46 have been amended to further define the structure of the support pad, and is consistent with the specification and all drawings of the support pad. The limitation of the pad providing "firm" support is supported by Fig. 4. This further definition of the support pad differentiates the instant invention from the only relevant prior art reference cited by the Examiner. Said claims have also been amended to remove the inconsistency as to whether the apparatus is a combination or a subcombination, and it is the intent of the Applicant that the invention is directed toward the subcombination.

### **Rejection of claims 6, 9, 16, 21, 28, 31, 37, and 40 under 35 U.S.C. §112, second paragraph.**

The Examiner has rejected Claims 6, 9, 16, 21, 28, 31, 37, and 40 under 35 U.S.C. §112, second paragraph due to the inclusion of the trademark "Velcro." Such rejection is respectfully traversed to the extent that the rejection applies to the newly amended claims 6, 9, 18, 21 and 31. Applicant has deleted references to the trademark from such amended claims and such claims should be allowable on their own merits.

Applicant respectfully reminds the Examiner that claims 16, 21, 37 and 40 were cancelled by Applicant in an earlier Response, filed 10/20/2000.

### **Rejections of claims 1, 22 and 41 under 35 U.S.C. §102(b) as being anticipated by U.S. Pat. No. 5,551,108 to Butler.**

The Examiner has rejected claims 1, 22 and 41 under 35 U.S.C. §102(b) as being anticipated by U.S. Pat. No. 5,551,108 to Butler. Such rejection is respectfully traversed to the extent such rejection applies to the newly amended independent claims 1, 22 and 41. Applicant provided an analysis in Applicant's Response, filed 10/20/2000, which analysis is incorporated therein. In such analysis, Applicant pointed out that the cushion of Butler has elevated edges on three sides forming an area for receiving the baby wherein when the baby is placed within the receiving area, the baby cannot roll off, or out of, the cushion. Claims 1, 22 and 41 have been amended to further limit the support pad of the invention to be of uniform thickness. The Examiner correctly points out that Butler discloses a support pad having a bottom surface of uniform planar surface, however, Butler does not disclose, either expressly or inherently, a support pad of uniform thickness.

### **Rejections of claims 2-4, 6, 9, 12, 24-25, 31 and 42-43 under 35 U.S.C. §102(b) as being anticipated by U.S. Pat. No. 5,551,108 to Butler.**

The Examiner has rejected claims 2-4, 6, 9, 12, 24-25, 31 and 42-43 under 35 U.S.C. §102(b) as being anticipated by U.S. Pat. No. 5,551,108 to Butler. Such rejection is respectfully rejected to the extent that such claims depend on the newly amended independent claims 1, 22 and 41, which are not anticipated by Butler. Although such rejected claims are considered to be allowable on their own merits, the combination of

claim 1 with claims 2-4, 6, 9 and 12 respectively, and the combination of claim 22 with claims 24-25 and 31 respectively, and the combination of claim 41 with claims 42 and 43 respectively, cannot be found to be anticipated by Butler.

Applicant respectfully reminds the Examiner that claims 13-14, 16, 18-19, 26, 32, 34-35, 37 and 40 were cancelled by Applicant in an earlier Response filed 10/20/2000.

**Rejection of claims 5, 7-8, 10-11, 23, 27, 29-30, 33, 44-45, and 47-53 under 35 U.S.C. §103(a) as being unpatentable over U.S. Pat. No. 5,551,108 to Butler.**

Claims 5, 7-8, 10 and 11 are dependent upon newly amended independent claim 1, which claim 1 is not obvious to one of ordinary skill in the art in view of Butler. Similarly claims 23, 27, 29 and 30 are dependent upon newly amended independent claim 22, which claim 22 is not obvious in view of Butler. Similarly, claims 44 and 45 are dependent upon newly amended independent claim 41, which claim 41 is not obvious to one of ordinary skill in the art in view of Butler. And, finally, claims 47-53 are dependent upon newly amended independent claim 46, which claim 46 is not obvious to one of ordinary skill in the art in view of Butler. Butler does not disclose a planar cushion, but in fact, teaches away from the use of such a planar cushion (see column 3, lines 34-41) in order to secure the infant in the combination cushion and cover. Butler teaches that the raised perimeter of his cushion is necessary to restrain a baby on his cushion/cover combination. Therefore, claims 1, 22, 41 and 46 are not obvious to one of ordinary skill in the art, and the combinations of claim 1 and claims 5, 7-8, 10 and 11, the combinations of claim 22 and claims 23, 27, 29 and 30, the combinations of claim 41 and claims 44 and 45, and the combinations of claim 46 and claims 47-53 cannot be obvious to one of ordinary skill in the art.

Applicant respectfully reminds the Examiner that claims 15, 17, 20, 33, 36, 38 and 39 were cancelled by Applicant in an earlier Response filed 10/20/2000.

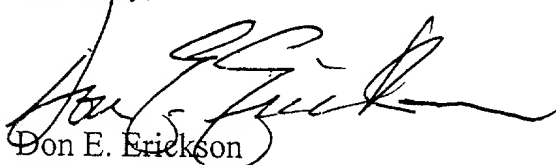
**Conclusion**

Applicant has amended independent claims 1, 22, 41 and 46 to further limit the scope of the invention in light of the cited reference, U.S Patent No. 5,551,108 to Butler. Butler does not disclose, either expressly or inherently, a substantially planar support pad of uniform thickness. In fact, Butler teaches away from using such a support pad of uniform thickness. Reconsideration and allowance of the claims are respectfully requested for the reasons set forth hereinabove.

Entry of this amendment is respectfully requested for the purpose of placing this application in condition for allowance or for the purpose of reducing the number of disputed issues for appeal.

Should the Examiner not be disposed to enter this Amendment for the purpose of allowance, a telephone interview for the purpose of discussing the issues not resolved by this Amendment is respectfully requested.

Sincerely,

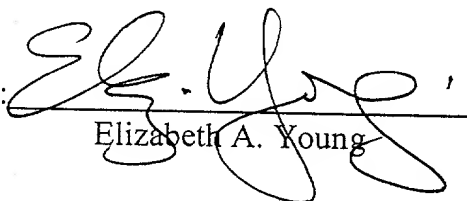


Don E. Erickson  
Attorney for Applicant  
Law Office, PMB 182  
3830 Valley Center Drive #705  
San Diego, CA 92130-2331  
Reg. No. 38,373

**Certificate of Service**

I hereby certify that this paper or fee is being deposited with the United States Postal Service, using first class service, postage prepaid, on the date indicated above and is addressed to "Assistant Commissioner of Patents, Box Patent Application, Washington, DC 20231.

Signed:

  
Elizabeth A. Young

Date of Signature: April 13, 2001

FOIA b 7 - E442E860